CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

August 2, 2004

H.R. 4520
Jumpstart Our Business Strength (JOBS) Act

As passed by the Senate on July 15, 2004

SUMMARY

H.R. 4520, as passed by the Senate on July 15, incorporates S. 1637—as passed by the Senate on May 11, 2004, with an additional amendment related to tobacco. The act would repeal the exclusion for a portion of income earned by exporters (so-called extraterritorial income), allow a deduction for income attributable to production in the United States, extend various expiring tax provisions, and make numerous other changes to tax law. The act would provide new authority to the Food and Drug Administration (FDA) to regulate tobacco products, and would make other changes to the federal tobacco production quota program. In addition, H.R. 4520, as agreed to by the Senate, would extend Internal Revenue Service (IRS) and customs user fees. The provisions of the act have various effective and sunset dates.

The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) estimate that enacting this legislation would decrease federal revenues by about $16.2 billion in 2005, $9.2 billion over the 2005-2009 period, and about $160 million over the 2005-2014 period. CBO estimates that enactment would increase outlays resulting from direct spending by about $1.2 billion in 2005 and $1.1 billion over the 2005-2009 period, but would decrease direct spending by about $350 million over the 2005-2014 period. On balance, enacting H.R. 4520, as passed by the Senate, would increase deficits by an estimated $17.4 billion in 2005 and $10.3 billion over the 2005-2009 period, but decrease deficits by about $190 million over the 2005-2014 period—excluding effects on discretionary spending and debt service (i.e., interest effects).

In addition, CBO estimates that implementing the act would have discretionary costs of $3.4 billion over the 2005-2014 period, assuming appropriation of the necessary sums.

CBO has reviewed the nontax provisions of H.R. 4520 and determined they contain intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). Those provisions would:

- Prohibit states from using offshore contracts;
- Require state and local governments to pay overtime to certain workers;
- Impose requirements on tobacco manufacturers and distributors, including tribal governments that produce and sell tobacco products; and,
- Preempt state laws governing tobacco.

In total, the cost of complying with those mandates would likely exceed the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation). Most of those costs would result from compliance with the overtime provisions.

The remaining nontax provisions of H.R. 4520 contain no intergovernmental mandates but would have impacts on state, local, and tribal governments. The provisions of the act that would subject vaccines for hepatitis A and influenza to taxation would increase state spending for Medicaid by about $90 million over the 2005-2009 period. Expanding optional Medicaid coverage for people with sickle cell disease also would increase state spending for Medicaid by about $28 million over the 2005-2009 period. New user fees on and FDA regulation of tobacco products could lower state revenues from taxes on tobacco products.

CBO has reviewed the nontax provisions and determined that the extension of the customs user fees, the extension of provisions in the Mental Health Parity Act, the prohibition on implementing certain overtime pay regulations, and the requirements and fees on tobacco manufacturers and importers are private-sector mandates as defined in UMRA. CBO estimates that the aggregate direct costs of those mandates would exceed the annual threshold established by UMRA for private-sector mandates ($120 million in 2004, adjusted annually for inflation) in each of the first five years the mandates are in effect.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of the act is shown in Table 1. The spending effects of the legislation fall within budget functions 270 (energy), 300 (natural resources and environment), 350 (agriculture), 550 (health), 570 (Medicare), 750 (administration of justice), and 800 (general government).

TABLE 1. SUMMARY OF BUDGETARY EFFECTS OF H.R. 4520, AS PASSED BY THE SENATE

	By Fiscal Year, in Millions of Dollars									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN REVENUES										
Estimated Revenues	-16,183	-3,369	2,617	3,992	3,769	2,577	3,889	3,162	915	-1,528
CHANGES IN DIRECT SPENDING										
Estimated Budget Authority	1,323	36	100	9	-136	-251	-417	-550	-642	407
Estimated Outlays	1,248	-48	3	1	-85	-244	-419	-555	-648	399
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
Estimated Authorization Level	358	355	355	355	355	345	335	336	336	301
Estimated Outlays	307	346	355	355	355	347	340	327	317	301

SOURCES: Joint Committee on Taxation and CBO.

BASIS OF ESTIMATE

This estimate assumes that H.R. 4520 will be enacted early in fiscal year 2005.

Revenues

With the exception of the provisions relating to mental health parity, Internal Revenue Service (IRS) fees, and changes in tobacco regulation and certain assessments, JCT provided the revenue estimates for this legislation. CBO and JCT estimate that the provisions of H.R. 4520, as agreed by the Senate, would decrease federal revenues by about $16.2 billion in 2005, $9.2 billion over the 2005-2009 period, and about $160 million over the 2005-2014 period (see Table 2).

TABLE 2. ESTIMATED IMPACT OF H.R. 4520 ON REVENUES

	By Fiscal Year, in Millions of Dollars									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN REVENUES										
Provisions Related to the Repeal of Exclusion for Extraterritorial Income	-3,020	-1,144	-499	-332	-902	-2,037	-2,933	-3,893	-5,512	-6,363
Tax Incentives for Manufacturing, Small Business, and Farmers	-8,855	-2,670	-850	-734	-336	-38	-148	-330	-481	-524
Tax Reform and Simplification for U.S. Businesses	-1,372	-1,226	-1,285	-2,094	-3,294	-4,993	-5,008	-5,426	-5,886	-6,373
Extension of Certain Expiring Provisions	-5,566	-3,830	-1,952	-1,565	-1,323	-1,026	-1,002	-1,071	-1,164	-1,201
Energy Tax Incentives	-4,324	-4,166	-3,173	-1,763	-1,085	-509	-155	-212	-782	-1,352
Expiration of Special Tax Treatment for Ethanol	0	0	0	0	0	0	1,131	1,559	1,586	1,614
Whistleblower Reforms	0	0	-3	-8	1	12	22	34	47	59
FDA Tobacco Regulation Fees	75	150	230	236	242	250	258	267	276	286
Impact of FDA Regulation of Tobacco on Excise Taxes	-4	-9	-15	-22	-29	-32	-35	-38	-40	-43
Charges for Tobacco Market Transition	1,722	1,222	1,222	1,217	1,178	1,178	1,178	1,178	1,178	0
Leasing Transactions with Tax-exempt Entities	4,351	4,347	4,536	4,266	4,215	4,447	4,711	4,767	4,959	5,282
Clarification of Economic Substance Doctrine	685	962	1,157	1,197	1,323	1,472	1,672	1,906	2,172	2,475
Other Provisions	125	2,995	3,249	3,594	3,779	3,853	4,198	4,421	4,562	4,612
Estimated Revenues	-16,183	-3,369	2,617	3,992	3,769	2,577	3,889	3,162	915	-1,528

SOURCES: Joint Committee on Taxation and CBO.

Provisions Related to Repeal of Exclusion for Extraterritorial Income. A provision would repeal the exclusion for a portion of income earned by U.S. exporters beginning in 2005. JCT estimates that enacting this provision would increase federal revenues by about $25.9 billion over the 2005-2009 period and $58.7 billion over the 2005-2014 period. Offsetting this increase in revenues is another provision that provides transition relief in the first two years after enactment for the provision relating to the repeal of exclusion of extraterritorial income. JCT estimates this provision would reduce federal revenues by $6.7 billion for the 2005-2007 period. Another provision would provide a deduction related to income attributable to U.S. production activities. JCT estimates that this deduction would decrease governmental receipts by about $25.1 billion over the 2005-2009 period and $78.7 billion over the 2005-2014 period. On net, these provisions would decrease revenues by almost $5.9 billion over the 2005-2009 period and by about $26.6 billion over the 2005-2014 period.

Tax Incentives for Manufacturing, Small Business, and Farmers. The provisions in this section primarily relate to domestic businesses and include changes to depreciation rules and the alternative minimum tax, and restructure incentives to manufacturers and other businesses. Almost all of the effect on revenues in 2005 would result from the provisions that allows a refund of payments of some past taxes for firms with certain net operating losses, although these provisions would have little effect on revenues in subsequent years. Taken together, these provisions would decrease revenues in 2005 by $8.9 billion, by $13.4 billion over the 2005-2009 period, and by almost $15 billion over the 2005-2014 period.

Tax Reform and Simplification for U.S. Businesses. The tax reform provisions primarily would make changes to tax law relating to U.S. businesses with foreign operations. Over one-third of the effect on revenues would result from altering interest expense allocation rules beginning in 2009, which JCT estimates would reduce federal revenues by about $14.4 billion over the 2009-2014 period. Other key provisions include lengthening the period over which unused foreign tax credits may be carried forward and claimed against current tax liabilities. Taken together, the provisions in this section would reduce revenues by about $1.4 billion in 2005, $9.3 billion over the 2005-2009 period, and $37 billion over the 2005-2014 period.

Extension of Certain Expiring Provisions. The act would extend 16 provisions scheduled to expire or that have already expired. Roughly 40 percent of the revenue effects for the 2005-2014 period (a revenue decrease of about $8.6 billion) would arise from the extension and modification of the research and experimentation credit, which expired on June 30, 2004, and would be extended under H.R. 4520 through December 31, 2005. Another provision, accounting for almost 30 percent of the revenue effects, would combine and modify the present-law work opportunity tax credit and the welfare-to-work tax credit, and would reduce federal revenues by about $5.9 billion over the 2005-2014 period. On net, the extension of expiring provisions would result in revenue decreases of about $5.6 billion in 2005, $14.2 billion over the 2005-2009 period, and $19.7 billion over the 2005-2014 period.

Energy Tax Incentives. Enacting H.R. 4520's energy tax incentives would decrease federal revenues by about $4.3 billion in 2005, $14.5 billion over the 2005-2009 period, and $17.5 billion over the 2005-2014 period. The provisions include, but are not limited to, the following:

- Extending and modifying the credit for producing electricity from certain sources allowed under Section 45 of the Internal Revenue Code;

- Increasing incentives for production, supply, and purchase of alternative motor vehicles and fuels;

- Modifying the taxation of income from oil and gas production, including rules for amortization of geological and geophysical expenditures, modification of the credit for certain facilities placed in service after the date of enactment but before 2007, rules defining treatment of natural gas distribution pipelines that are depreciable over a 15-year period, and measures to prevent fuel fraud, such as taxation of aviation grade kerosene at the terminal rack; and

- Instituting electric utility restructuring and reliability provisions, including modification of the special rules for nuclear decommissioning costs.

Expiration of Special Tax Treatment for Ethanol. The act would replace the current gasoline tax exemption for alcohol fuels with an excise tax credit worth the same amount. The Balanced Budget and Emergency Deficit Control Act of 1985 requires CBO to treat excise taxes dedicated to trust funds as permanent, even if they expire during the projection period. CBO's baseline assumptions include permanent extension of the reduced rates of taxation on alcohol fuels beyond their expiration in 2005 because they reduce amounts credited to the Highway Trust Fund (HTF). However, the excise tax credit for alcohol fuels, as provided for in the act, would not reduce amounts credited to the HTF and would expire at the end of 2010. Therefore, CBO and JCT do not assume the credit would be extended and estimate that repealing the existing exemptions from the gasoline tax rate for alcohol fuels would increase governmental receipts by an additional $5.9 billion between 2011 and 2014, after the new tax credit would expire.

Whistleblower Reforms. Section 488 would amend current law to set minimum and maximum amounts for rewards given to persons that inform the IRS of tax evasion. In recent years the IRS has awarded such informants between 4 percent and 11 percent of the revenues collected as a result of the information provided. Under the act, the IRS would pay informants at least 10 percent of the amounts collected and in some cases the award could be as much as 30 percent. Thus, the average size of awards would increase. The act would allow the IRS to use part of any additional revenue collected through information provided by informants to pay for the services of attorneys to help establish cases against tax evaders. The act also would establish a whistleblower office to process the information provided by informants.

The JCT estimates that the prospect of greater awards under the act would increase the volume and quality of tax-evasion information provided by informants. Over the 2005-2014 period, JCT estimates federal receipts would increase by $744 million due to the greater financial incentive mandated by this legislation. This would nearly double the $748 million in collections expected under current law from information provided by whistleblowers in the next 10 years.

JCT estimates that providing larger awards (an average of 25 percent of amounts collected) to informants would cost $310 million over the next 10 years. That estimate includes larger awards for informants that would be whistleblowers without the greater financial incentives that would be required under the act. In addition, JCT estimates that making payments to attorneys that help establish cases against tax evaders (reaching about 20 percent of amounts collected) would cost $270 million over the next 10 years. That estimate also includes payments to attorneys for tax evasion cases that would be pursued under current law.

The budget currently records the value of revenues collected through the efforts of whistleblower informants that are net of any cash award. Revenue collections equivalent to the cost of informant awards are recorded in the budget as an offset to the expenditure for such awards. Thus, there is no net impact on outlays from this budgetary treatment. Assuming this budget treatment would continue for whistleblower expenses under the act, enacting the legislation would result in additional net revenue collections of $164 million over the next 10 years, with no net change in outlays.

FDA Tobacco Regulation Fees. H.R. 4520 would authorize the Food and Drug Administration to regulate tobacco products. The act would authorize the FDA to assess user fees on tobacco manufacturers and importers to cover the cost of FDA's regulatory activities. CBO anticipates that such fees would be classified as revenues in the federal budget. We assume that all of FDA's activities required under the act would be covered by the assessments, including FDA's research activities and grant programs authorized by the act and the costs associated with the proposed Tobacco Products Scientific Advisory Committee. H.R. 4520 would authorize the assessment of fees on manufacturers and importers of up to $85 million in 2004, $175 million in 2005, and $300 million in 2006. In later years, the $300 million limit would be adjusted for inflation as specified in the act.

For the purpose of this estimate, we assume that H.R. 4520 would be enacted during fiscal year 2005; as a result, we estimate that no fees would be collected in fiscal year 2004. CBO anticipates that the limits on assessments identified in the act for 2005 and 2006 likely would exceed FDA's costs in those years to implement such a large expansion of its regulatory activities.

Given the uncertainty surrounding how the FDA would design the new regulatory program established under the act, it is difficult to estimate the resources necessary to implement those new requirements. CBO assumes that FDA's costs to regulate tobacco products would not reach the authorized fee limits in the 2005 or 2006 ($175 million in 2005, and $300 million for 2006, as noted above). Instead, we assume a three-year ramp-up in fees, with collections of $100 million and $200 million for 2005 and 2006, respectively, followed by collections of about $300 million in 2007. Starting in 2007, CBO assumes the collection of the amounts specified for 2006 ($300 million), with increases for anticipated inflation in wages and salaaries of federal workers in future years. As a result, we estimate that implementing the act would increase federal revenues from the assessments by $1.2 billion over the 2005-2009 period and $3 billion over the 2005-2014 period.

Those assessments would be tax-deductible business expenses, therefore reducing income and payroll taxes by an estimated 25 percent of the gross assessments. As a result, overall federal revenues would increase by $75 million in 2005, by $0.9 billion over the 2005-2009 period, and by $2.3 billion over the 2005-2014 period.

In addition, the act would allow the Secretary of Health and Human Services to levy penalties against sponsors of misbranded and adulterated tobacco products, sellers of tobacco products to underage individuals, and for other violations. We estimate that revenues associated with the collection of such penalties authorized under H.R. 4520 likely would be less than $500,000 a year. However, FDA's past experience with similar types of penalties suggests that it is possible that those revenues could total $1 million or more in some years.

Impact of FDA Regulation of Tobacco on Excise Taxes. The FDA's likely regulatory activities under the act would include acting to limit sales of tobacco products to children. If successful, the federal budget would be directly affected through reduced receipts of excise taxes on tobacco products.

The effects of such regulatory actions are uncertain in part because actions are already being undertaken to restrict sales of tobacco to children. The FDA issued certain tobacco regulations in 1996, but the Supreme Court ruled that it did not have such authority. At the time, FDA had the goal of reducing underage smoking by 50 percent over 7 years. Since then, the voluntary agreement between tobacco manufacturers and states has resulted in various actions intended to reduce underage smoking.

If the FDA were authorized to regulate tobacco as specified in the act, CBO assumes that after about five years underage tobacco use would decline by roughly one-eighth compared to the amount of such use without the act. In addition, adult consumption would slowly decline as the children aged, although the regulations would result in some children only delaying beginning to smoke rather than permanently remaining nonsmokers. Taking all these factors into account, CBO estimates that enacting this regulatory authority would result in reduced excise tax receipts of $4 million in 2005, $79 million over the 2005-2009 period, and $267 million over the 2005-2014 period, net of income and payroll tax offsets. Over the 10-year period, the reduction in receipts would amount to less than one-half of one percent of tobacco excise tax receipts expected under current law.

Charges for Tobacco Market Transition. Subtitle B of title XI would establish a system of assessments on tobacco product manufacturers and importers for deposit into a tobacco trust fund created within the Department of Agriculture's Commodity Credit Corporation (CCC). All assessments would be deposited to the fund, and all costs of the subtitle except for the costs to develop new insurance products for tobacco growers would be paid from the fund. The additional revenues would therefore exactly match the estimated direct spending that results from the tobacco market provision. (Such tobacco-related expenditures are discussed below under the heading "Direct Spending.")

Under the act, the Secretary of Agriculture would annually determine the amount needed to make all payments from the fund, and collect that amount from tobacco product manufacturers and importers. Individual assessments would be prorated based on the value of products marketed. CBO estimates that $11.3 billion would be collected over the 2005-2013 period. That estimate is largely based on the direct payments to tobacco producers and owners of tobacco quotas, as would be authorized by the legislation (discussed below under "Direct Spending"). Tobacco quotas control the amount of tobacco that can be grown and marketed.

To fund the development of new insurance products for tobacco growers, the Secretary would be authorized to collect a separate assessment from producers and purchasers of tobacco to offset the costs of such product development. CBO estimates that additional revenues under this provision would total $15 million over the 2005-2007 period.

Leasing Transactions with Tax-exempt Entities. This provision would reduce the advantages of certain leasing transactions, generally with tax-exempt parties, that are often referred to as sale-in/lease-out transactions. Such transactions move a tax benefit from a party that cannot use it to a party that can use it and generally involve no useful economic activity. Enacting this provision would increase federal revenues by about $4.4 billion in 2005, $21.7 billion over the 2005-2009 period, and $45.9 billion over the 2005-2014 period.

Clarification of Economic Substance Doctrine. This provision would reduce tax shelters and economic activity undertaken solely for the purpose of avoiding payment of taxes by clarifying the economic substance doctrine and related penalty provisions. The provision would increase revenues by about $700 million in 2005, $5.3 billion over the 2005-2009 period, and $15 billion over the 2005-2014 period.

Other Provisions. On net, other tax provisions in the act would increase federal revenues by $125 million in 2005, $13.7 billion over the 2005-2009 period, and $35 billion over the 2005-2014 period. The following provisions provide over half of such revenue increases:

- Changing the treatment of charitable contributions of transportation vehicles, patents and similar property;
- Providing for taxation of aviation-grade kerosene at the terminal rack;
- Modifying definitions of income under the foreign earned income exclusion cap to include employer-provided housing;
- Establishing consistent amortization periods for intangibles; and
- Modifying the tax treatment of inversion transactions, which occur when a multinational firm with a U.S. parent corporation restructures so that a new foreign corporation becomes the parent corporation, with little or no change in operating structure.

Direct Spending

CBO estimates that enacting H.R. 4520 as passed by the Senate would increase direct spending by about $1.1 billion over the 2005-2009 period, but decrease direct spending by about $350 million over the period 2005-2014 (see Table 3). The largest direct spending effects would come from extending the customs users fees—resulting in more than $16 billion of additional offsetting receipts (a credit against direct spending)—and from providing payments to holders of tobacco production quotas—resulting in about $11 billion of outlays over the 2005-2014 period.

TABLE 3. ESTIMATED IMPACT OF H.R. 4520 ON DIRECT SPENDING

	By Fiscal Year, in Millions of Dollars									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN DIRECT SPENDING										
Extension of Customs User Fees										
Estimated Budget Authority	-784	-1,565	-1,656	-1,751	-1,853	-1,960	-2,074	-2,194	-2,321	-120
Estimated Outlays	-784	-1,565	-1,656	-1,751	-1,853	-1,960	-2,074	-2,194	-2,321	-120
Tobacco Market Transition										
Estimated Budget Authority	1,722	1,222	1,222	1,217	1,178	1,178	1,178	1,178	1,178	0
Estimated Outlays	1,722	1,222	1,222	1,217	1,178	1,178	1,178	1,178	1,178	0
FDA Regulation of Tobacco										
Estimated Budget Authority	100	200	307	315	323	333	344	356	368	381
Estimated Outlays	25	118	210	307	374	340	339	350	361	373
Impact of FDA Regulation of Tobacco on Medicaid										
Estimated Budget Authority	-1	-1	-3	-4	-6	-7	-8	-9	-11	-12
Estimated Outlays	-1	-1	-3	-4	-6	-7	-8	-9	-11	-12
Cover Over of Tax on Distilled Spirits										
Estimated Budget Authority	151	18	0	0	0	0	0	0	0	0
Estimated Outlays	151	18	0	0	0	0	0	0	0	0
Taxation of Hepatitis A and Influenza Vaccines										
Estimated Budget Authority	42	44	46	47	48	49	49	50	51	52
Estimated Outlays	42	44	46	47	48	49	49	50	51	52
Expiration of Special Tax Treatment of Ethanol										
Estimated Budget Authority	0	0	0	0	0	0	19	32	54	66
Estimated Outlays	0	0	0	0	0	0	19	32	54	66
Providing Direct Payments in Lieu of Excise Tax Credits										
Estimated Budget Authority	105	114	116	117	119	121	38	0	0	0
Estimated Outlays	105	114	116	117	119	121	38	0	0	0
Impacts of Biodiesel Tax Credits										
Estimated Budget Authority	-30	-32	-2	0	0	0	0	0	0	0
Estimated Outlays	-30	-32	-2	0	0	0	0	0	0	0

Continued

Table 3. Continued

	By Fiscal Year, in Millions of Dollars									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Health Care Services for Treatment of Sickle Cell Disease										
Estimated Budget Authority	2	6	8	10	11	14	16	18	20	21
Estimated Outlays	2	6	8	10	11	14	16	18	20	21
IRS Contracting for Debt Collection										
Estimated Budget Authority	0	19	50	45	30	0	0	0	0	0
Estimated Outlays	0	19	50	45	30	0	0	0	0	0
Use of Credits for Federal Payments by TVA and Rural Electric Cooperatives										
Estimated Budget Authority	12	5	6	7	8	15	15	13	13	13
Estimated Outlays	12	5	6	7	8	15	15	13	13	13
Protection of U.S. Workers from Competition of Foreign Workforce										
Estimated Budget Authority	3	5	5	5	5	5	5	5	5	5
Estimated Outlays	3	5	5	5	5	5	5	5	5	5
Modify Taxation of Imported Archery Products										
Estimated Budget Authority	1	1	1	1	1	1	1	1	1	1
Estimated Outlays	1	1	1	1	1	1	1	1	1	1
Total Changes										
Estimated Budget Authority	1,323	36	100	9	-136	-251	-417	-550	-642	407
Estimated Outlays	1,248	-48	3	1	-85	-244	-419	-555	-648	399

Extension of Customs User Fees. Under current law, customs user fees expire after March 1, 2005. The act would extend these fees through September 30, 2013. CBO estimates that this provision would increase offsetting receipts by about $16.3 billion over the 2005-2014 period.

Tobacco Market Transition. Subtitle B of title XI would repeal laws implemented by the U.S. Department of Agriculture (USDA) to control the supply and price of tobacco grown in the United States by granting individuals rights (known as quotas) to produce and market specific quantities of tobacco. Under the legislation, this system of control through quotas and acreage allotments would be replaced by a production adjustment board that could recommend acreage or production limitations. A series of direct federal payments to domestic tobacco growers and owners of tobacco quotas also would be provided. (Because those holding tobacco quotas to produce and market tobacco can lease that right to others, the quota owners and growers may be different individuals.)

The legislation would end supply controls for the 2004 tobacco crop and for future crops, and would provide quota holders and growers annual payments over the 2004-2013 period. CBO assumes that H.R. 4520 will be enacted early in fiscal year 2005 and that the act's provisions regarding the 2004 tobacco crop and 2004 payments or grants will not be implemented. For this estimate we assume these provisions would become effective in fiscal year 2005. CBO estimates that enacting the tobacco market transition provisions of H.R. 4520 would cost $11.3 billion over the 2005-2013 period. (As currently drafted, the legislation would call for payments from 2004 through 2013, but our assumed enactment in fiscal year 2005 means that 2004 payments would not occur. If the language were modified to provide 10 years of payments beginning in 2005, CBO estimates the total cost of this provisions would be $12.5 billion over the 2005-2014 period. Revenues would be correspondingly higher, as well, if the language were changed.)

Direct Payments to Tobacco Growers and Quota Holders. The act would provide a direct payment to individuals of $0.80 per pound of tobacco quota owned and $0.40 per pound of tobacco quota grown for each year over the 2005-2013 period. Based on information from USDA on the volume of tobacco quotas and the use of those quotas, CBO estimates this provision would cost about $1.2 billion a year, or a total of $10.4 billion over the 2005-2013 period.

Grants for Economic Development. The legislation also would establish and specify amounts for economic development grants for states where tobacco is grown, competitive research grants, tobacco marketing association grants, and tobacco warehouse association grants over the 2004-2008 period. Because CBO assumes that the act will be enacted in fiscal year 2005, we expect that these grants would be implemented over the 2005-2008 period at a total estimated cost of $156 million.

CCC Cost. In addition to the direct federal payments and grants authorized by this title, CBO estimates that tobacco growers and buyers would be relieved of paying a federal assessment of about $500 million in 2005 due to the termination of USDA's No-Net-Cost Tobacco program. That program is operated under current law to provide a support price (also known as a loan rate) to growers of the many varieties of domestic tobacco. This program is administered through the CCC and is separate from the tobacco quota system discussed above. Support prices for the various tobacco varieties are set by a formula specified in current law, and USDA is charged with attempting to control the supply of tobacco through quotas so that the actual market price of tobacco is at or above the support price. In the event that USDA cannot manage supply to achieve the support price in the market, growers are guaranteed the support price by USDA. Any net cost incurred by USDA to maintain the support price, however, is offset by an assessment imposed on all tobacco growers and buyers. Thus, under current law, the price support program operates at no net cost to the federal government.

Under the act, the CCC price support for tobacco would be terminated for the 2004 tobacco crop and for future crops. USDA, however, has already guaranteed price support for the 2004 tobacco crop. Consequently, this provision could not be implemented until 2005. CBO expects that after enactment of H.R. 4520 the market price for domestic tobacco would drop precipitously because USDA's quota and acreage allotment systems would no longer restrict the supply of tobacco in the future. Although under the legislation new tobacco quality and production control boards would be established, it is not clear how effective they will be at supporting the price of tobacco. We estimate the price support program would cost the CCC about $500 million in 2005 as more growers would accept the support price for tobacco and forfeit crops from 2004 and previous years to the government. The legislation would terminate the No-Net-Cost Tobacco program for future years' crops.

Other Costs. The act would provide $20 million per year through 2013 for administrative costs of the tobacco quality and production control boards. The legislation also would provide spending authority to develop new insurance products to insure against the risks of producing tobacco. Based on information from USDA's Risk Management Administration, CBO estimates this provision would cost $15 million over the 2005-2007 period.

FDA Regulation of Tobacco. The act would provide the FDA with the authority to regulate tobacco products. Such authority would include:

- Setting national standards for tobacco products;

- Implementing new restrictions on the sale, marketing, advertising, and promotion of tobacco products;

- Requiring certain tobacco products to obtain FDA approval before entering the market;

- Directing tobacco manufacturers to adhere to new labeling requirements and to submit certain information, including health-related data, to the FDA about their products; and

- Enforcing compliance with requirements authorized under the act.

Spending of the user fees assessed on tobacco manufacturers to cover FDA's cost of regulating tobacco would be direct spending, because those amounts would not be subject to appropriation action. CBO estimates that implementing these provisions would increase direct spending to pay for FDA's activities required under the act by $25 million in 2005, $1 billion over the 2005-2009 period, and $2.8 billion over the 2005-2014 period.

Impact of FDA Regulation of Tobacco on Medicaid. CBO anticipates that the decline in teenage smoking due to FDA regulation of tobacco products also would reduce the number of women who smoke during pregnancy. This reduction would lead to lower spending by the Medicaid program—which covers about 40 percent of all pregnancies in the United States—because women who do not smoke are less likely to have miscarriages, experience complications during pregnancy, and give birth to children with low birth weights. A variety of research indicates that children with low birth weights have higher medical costs, particularly at birth, but also later in life. Savings of some such costs would be partly offset by higher costs for additional live births because of the decline in miscarriages. On net, CBO estimates that FDA regulation of tobacco products would reduce federal Medicaid spending by about $60 million over the 2005-2014 period.

Cover Over (Payment) of Tax on Distilled Spirits. Under current law, an excise tax of $13.50 per proof gallon is assessed on distilled spirits produced or brought into the United States. The treasuries of Puerto Rico and the Virgin Islands receive $10.50 per proof gallon of the excise tax on rum imported into the U.S. from any country or those possessions (that amount is known as the tax cover over). A higher payment rate of $13.25 per proof gallon expired on December 31, 2003. Under the act, the governments of Puerto Rico and the Virgin Islands would receive payments of $13.25 per proof gallon of tax assessments made between January 1, 2004, and December 31, 2005. Those payments are recorded as outlays in the budget. Based on recent tax and payment data, CBO estimates that increasing the possessions' share of the excise tax would increase direct spending by $168 million over fiscal years 2005-2006.

Taxation of Hepatitis A and Influenza Vaccines. Sections 491 and 732 would require buyers of hepatitis A and influenza vaccines to pay an excise tax on each dose purchased. Medicaid is a major purchaser of vaccines through the Vaccines for Children program, administered through the Centers for Disease Control and Prevention (CDC). Medicare is a major purchaser of the vaccines for the elderly. CBO estimates that Medicaid and Medicare pay for approximately half of the hepatitis A and influenza vaccines sold annually. Based on estimates provided by JCT, CBO expects that implementing the bill would cost the Medicaid and Medicare programs about $38 million in 2005 and $435 million over the 2005-2014 period. (Those amounts are reflected in the estimates of the revenues resulting from the bill.)

Receipts from the tax would go to the Vaccine Injury Compensation Fund (VICF), which is administered by the Health Resources and Services Administration (HRSA). The fund uses tax revenues to pay compensation to claimants injured by vaccines. Once a vaccine becomes taxable, injuries attributed to its use become compensable through this fund. Based on information provided by HRSA and CDC, we assume there will be few compensable claims related to the hepatitis A and influenza vaccines. CBO estimates the provisions of H.R. 4520 would increase outlays from the VICF by $43 million over the 2005-2014 period. Thus, we estimate that outlays resulting from the vaccine provisions would total $42 million in 2005 and $478 million over the 2005-2014 period.

Expiration of Special Tax Treatment for Ethanol. Replacing the gasoline tax exemption for alcohol fuels with an excise tax credit would result in increased spending for farm price and income support payments after 2010 because the exemption is assumed to continue after 2010, but the credit is assumed to expire. Because the alcohol in such fuels is primarily derived from corn, demand for corn rises and falls with the demand for ethanol. The higher after-tax cost of alcohol fuels resulting from expiration of the tax credit in 2010 would slightly reduce demand for ethanol and corn prices relative to those projected in the CBO baseline. As a result, CBO estimates that federal spending for farm price and income support payments would increase by $171 million over the 2011-2014 period.

Providing Direct Payments in Lieu of Excise Credits for Alcohol Fuels. The act would provide for payments of the new excise tax credits to recipients who have insufficient tax liability to use them otherwise. CBO estimates that outlays would increase by $571 million over the 2005-2009 period and $730 million over the 2005-2011 period. Because these payments would replace the existing reduced tax rate on alcohol fuels, these amounts exactly equal the increase in revenues estimated for this provision.

Impacts of Biodiesel Tax Credits. Because of the act's incentives to sell and use biodiesel fuels, JCT and CBO have estimated that use of those fuel mixtures would increase until the incentives expire on December 31, 2006. Because the vegetable oil in the mixtures is expected to be primarily derived from soybeans and a few other oilseeds, the price of those oilseeds would increase. (Qualifying vegetable oils may be derived from corn, soybeans, and a list of other oil seeds.) Higher commodity prices would result in lower costs of farm price-support and income-support programs administered by USDA. CBO estimates those changes in the demand for soybeans and other sources of vegetable oils would reduce federal spending by $64 million from 2005 through 2007.

Health Care Services for Individuals with Sickle Cell Disease. Section 662 of the act would permit states to make services for the treatment of sickle cell disease (SCD) a separate benefit in their Medicaid programs and would allow states to receive Medicaid matching funds for education and outreach efforts related to SCD. CBO estimates that these provisions would increase federal Medicaid spending by $126 million over the 2005-2014 period. (The act also would authorize demonstration projects that, assuming appropriation of the authorized amounts, would increase discretionary spending by about $60 million over the same period.)

Establishment of SCD-related services as a separate Medicaid benefit. The act would allow state Medicaid programs to cover services for the treatment of sickle cell disease as a separate benefit. Medicaid currently covers those services within its existing benefit categories, which are primarily organized by type of provider, such as hospitals or physicians. States can set coverage limits for each type of benefit, and must generally offer the same package of benefits to all recipients. Creating a separate benefit for SCD-related services would give states greater flexibility to revise coverage limits and payment rates for those services because any changes would apply only to individuals with SCD, instead of the entire Medicaid population.

Based on a review of recent medical research, CBO estimates that approximately 70,000 individuals in the United States have sickle cell disease. About half of those individuals are covered by Medicaid. Medicaid coverage is relatively common for the SCD population for two reasons. SCD is a severe disease which manifests itself early in life and significantly shortens the life expectancy of those afflicted (the average life expectancy for afflicted individuals is in the mid-forties). Consequently, many of those with SCD are children; CBO estimates that half of the Medicaid recipients with SCD are children. Medicaid's eligibility rules for children are generous. In addition, many individuals with SCD can qualify for Medicaid under its eligibility rules for disabled individuals.

Medical research on SCD suggests that per capita spending on services for the SCD population is similar to Medicaid's per capita spending for its disabled recipients. Those costs are quite high—CBO estimates that the federal share of Medicaid spending on disabled individuals will rise from $8,200 in 2005 to $14,400 by 2014. (On average, the federal government pays 57 percent of the cost of Medicaid benefits.)

CBO anticipates that Medicaid spending on individuals with SCD would rise in those states that choose to make SCD-related services a separate benefit. CBO assumes that per capita spending on adults with SCD would increase by 10 percent, due to a combination of more generous coverage limits and higher payment rates for SCD-related services. The increase in spending for children would be smaller—2.5 percent. Medicaid law prohibits states from imposing coverage limits on benefits for children, so any additional spending would stem from higher payment rates only.

Under the act, states would make SCD-related services a separate benefit at their option. CBO assumes that states with half of the SCD population would ultimately do so, although the full budgetary effect would not be felt for several years. Overall, CBO estimates that this provision would increase federal Medicaid spending by $2 million in 2005 and $103 million over the 2005-2014 period.

Education and outreach services for individuals with SCD. The act would also allow state Medicaid programs to cover education and outreach services provided to individuals with sickle cell disease. The services would be considered an administrative expense, with the federal government paying half of any costs. CBO estimates that this provision would increase federal Medicaid spending by less than $1 million in 2005 and by $23 million over the 2005-2014 period. The cost of the provision would be relatively low because of the small size of the SCD population.

IRS Contracting for Debt Collection. The act would allow the IRS to contract with private collection agencies (PCAs) to collect payments of tax liabilities for five years. JCT estimates that this provision would increase revenues by about $580 million over the 2005-2009 period. The IRS would be allowed to retain and spend up to 25 percent of the amount collected by the PCAs to pay for the services they provide. CBO estimates that allowing the IRS to retain and spend 25 percent of the amounts collected would increase direct spending by $144 million over the 2005-2009 period.

Use of Credits for Federal Payments by TVA and Rural Electric Cooperatives. The act would establish tax credits for electric power producers using certain clean coal technologies. Although exempt from taxation, the Tennessee Valley Authority (TVA) and rural electric cooperatives would be eligible to take such credits in the form of cash-equivalent credits that could be used to repay amounts they owe to the Treasury. We estimate that the provisions would cost $12 million in 2005, $38 million over the 2005-2009 period, and $107 million over the 2005-2014 period.

TVA Power Revenues. CBO expects that TVA will make significant investments in pollution control and clean coal technologies over the next 10 years and thus would be eligible for the cash-equivalent credits authorized by the act. TVA could use such credits to reduce its payment to the Treasury for past appropriations. TVA could then pass such savings on to its customers by lowering the price it charges for electricity. We estimate that this price adjustment would reduce TVA's power revenues by an average of $10 million a year beginning in 2005, when we expect the agency would revise its rates. Hence, CBO estimates that this provision would cost nearly $100 million over the 2005-2014 period.

Loan Prepayments by Rural Cooperatives. Rural electric cooperatives would be eligible for both of the clean coal technology tax credits offered under the act. Based on information from industry analysts, CBO expects that rural electric cooperatives would make investments in technologies that would qualify for such credits over the next several years. The act would allow the credits to be sold or traded to certain other taxable entities, or used to prepay loans held by the federal government. For this estimate, we assume that around 15 percent of eligible cooperatives would prepay their federal loans with the Rural Utilities Service, rather than trade the credits.

The authority provided by the act to prepay federal loans with noncash credits would be considered a loan modification. Under the Federal Credit Reform Act, the cost of a loan modification is the change in the subsidy cost of the loan (on a present-value basis) because of the modified loan terms. CBO estimates that the cost of this provision would be about $10 million and would be recorded in 2005, the assumed year of enactment.

Protection of U.S. Workers from Competition of Foreign Workforce. The act would prohibit the disbursement of federal funds for financial assistance to a state unless the chief executive of the state certifies that none of the funds will be used for work performed outside the United States as part of any state contract. CBO estimates that this provision would increase direct spending in the Food Stamp program by $23 million over the 2005-2009 period and by $48 million over the 2005-2014 period.

The Food Stamp program requires all states to distribute benefits to recipients electronically, typically on a debit card. The federal government pays for half of the administrative costs of running the Food Stamp program at the state level. In fiscal year 2003, the program paid states about $2.3 billion for administrative costs.

Currently, 41 states have call centers that are located outside the United States as part of their electronic benefits transfer (EBT) contracts. Toll-free call centers answer recipients' questions about lost or stolen cards and related issues. These states represent about 80 percent of the caseload for food stamps. Under this act, these states would be required to move these operations to the United States or they would face losing federal administrative funds.

CBO assumes that all states would eventually move their call centers to this country because they would not want to lose significant federal dollars. However, we assume that some of these states will move their call centers over the course of the next year, regardless of this act. Based on conversations with state Food Stamp offices, a few states are currently in the process of amending their EBT contracts to relocate their call centers to this country. In addition, over 30 states legislatures are considering bills that would require all work performed for state contracts to be done in this country.

CBO estimates that about 45 percent of the Food Stamp caseload are in states that would move their call center back to the United States directly as a result of this act. Based on information from states that have recently or are in the process of relocating their call centers, CBO estimates that it would cost 0.25 cents per household per month for a state to move a call center back to the United States. CBO estimates the total federal cost would be about

$5 million a year, but slightly lower in 2005 to account for the length of time necessary to amend existing contracts.

This provision also could affect other entitlement programs such as Medicaid, but CBO estimates those costs as insignificant.

Modify Taxation of Imported Archery Products. The act would eliminate or reduce excise taxes on certain archery equipment, which are deposited into the Federal Aid-Wildlife Fund. CBO estimates that the net effect of enacting these provisions would be an increase in direct spending of about $10 million over the 2005-2014 period.

Installment Agreements for Tax Payments. Under current law, taxpayers can elect to pay their full tax liability though installments. The act would allow the IRS to enter into agreements for the partial payment of tax liabilities. That change would result in more installment agreements and additional revenue collections. The IRS charges a fee of $43 for each installment agreement, which it can spend without further appropriation. CBO estimates that allowing installment agreements providing for the partial payment of tax liabilities would increase IRS collections of installment fees by about $1 million over the 2005-2006 period. Because the IRS has the authority to retain and spend such collections without further appropriation, the change would have no significant net budgetary impact.

Spending Subject to Appropriation

Several provisions of H.R. 4520 would affect discretionary spending. CBO estimates that implementing those provisions would cost $1.7 billion over the 2005-2009 period and $3.4 billion over the 2005-2014 period, assuming appropriation of the authorized and estimated amounts (see Table 4). Most of that spending would stem from the act's authorization of appropriations for tax law enforcement.

TABLE 4. ESTIMATED IMPACT OF H.R. 4520 ON SPENDING SUBJECT TO APPROPRIATION

	By Fiscal Year, in Millions of Dollars									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
Tax Law Enforcement										
Authorization Level	300	300	300	300	300	300	300	300	300	300
Estimated Outlays	278	297	300	300	300	300	300	300	300	300
Tribal School Construction										
Authorization Level	30	30	30	30	30	30	30	30	30	0
Estimated Outlays	8	25	30	30	30	30	30	20	11	0
Spending for Treatment of Sickle Cell Disease										
Authorization Level	10	10	10	10	10	10	0	0	0	0
Estimated Outlays	5	9	10	10	10	10	5	1	0	0
Homestead Preservation Act										
Authorization Level	10	10	10	10	10	0	0	0	0	0
Estimated Outlays	8	10	10	10	10	2	0	0	0	0
Spending from IRS User Fees										
Estimated Authorization Level	3	3	4	4	4	4	4	5	5	0
Estimated Outlays	3	3	4	4	4	4	4	5	5	0
New Markets Tax Credit for Native American Reservations										
Authorization Level	1	1	1	1	1	1	1	1	1	1
Estimated Outlays	1	1	1	1	1	1	1	1	1	1
Blue Ribbon Commission										
Estimated Authorization Level	1	1	0	0	0	0	0	0	0	0
Estimated Outlays	1	1	0	0	0	0	0	0	0	0
Studies by Department of Treasury										
Estimated Authorization Level	3	0	0	0	0	0	0	0	0	0
Estimated Outlays	3	0	0	0	0	0	0	0	0	0
Total Changes in Discretionary Spending										
Estimated Authorization Level	358	355	355	355	355	345	335	336	336	301
Estimated Outlays	307	346	355	355	355	347	340	327	317	301

Tax Law Enforcement. Section 418 would authorize the appropriation of $300 million annually for tax law enforcement activities to combat tax-avoidance transactions, including tax shelters and offshore accounts. Assuming the appropriation of the specified amounts, CBO estimates that implementing this provision would cost $278 million in 2005 and about $3 billion over the 2005-2014 period.

Tribal School Construction. Section 616 of the act would authorize the Secretary of the Interior to allow qualified Indian tribes to issue new school-construction bonds that would receive favorable federal income tax treatment. Tribes could issue these bonds, up to a total of $200 million a year in both calendar years 2005 and 2006, only if they are able to establish trust agreements with approved banks or trust companies. These trust agreements would specify that the trustee would hold accounts for the tribes and would handle all the proceeds from the bond issue, payments to bond holders, investment of the funds that the tribes would deposit into the account (including any grants from the Secretary for this purpose), and earnings on the fund balances.

Deposits by (or on behalf of) the tribes would have to be sufficient, along with earnings on the funds, to repay the principal on the new bonds. No principal payments would be required until a bond matured, which in no case would be later than 15 years after the issuance date. Tribes would not be responsible for any interest payments on the new bonds; instead the federal government would provide a tax credit equal to the quarterly interest payments that would have been paid if the bonds earned interest at the corporate bond rate. In addition, tribes would not be required to make any additional deposits in the trusteed account if the balances are insufficient when the principal payments are due.

In addition to authorizing the bond issues, the act would authorize the Secretary of the Interior, out of monies provided for school replacement in the Bureau of Indian Affairs construction account, to establish an escrow account for tribal school modernization. The act would authorize the appropriation of $30 million annually for this purpose beginning in 2005. The escrow funds could be used for advanced planning, design, and construction for the replacement of tribal schools.

Based on the JCT's assumptions about the issuances of the bonds, CBO estimates that the Secretary would deposit $8 million in the escrow account in 2005 and $214 million over the 2005-2013 period. Such deposits would be recorded as federal outlays when they occur.

JCT estimates that these bond issues would reduce federal revenues by $129 million over the 2005-2014 period. (These estimates are included in the other provisions portion of the earlier discussion of revenue effects.)

Demonstration Projects to Improve Treatment of Sickle Cell Disease. Section 662 of the act would authorize the appropriation of $10 million annually for fiscal years 2005 through 2009 for demonstration projects to improve the treatment of SCD. This funding would be administered by the Health Resources and Services Administration. Based on historical spending patterns of existing HRSA programs, and assuming appropriation of the authorized amounts, CBO estimates that implementing this provision would cost $5 million in 2005 and about $60 million over the 2005-2014 period.

Homestead Preservation Act. Section 902 of the act would authorize the appropriation of $10 million annually for fiscal years 2005 through 2009 for low-interest loans to enable eligible individuals to continue to make mortgage payments on their primary residences. Eligible loan recipients include workers adversely affected by international economic activity, as determined by the Secretary of Housing and Urban Development. Assuming appropriation of the authorized amounts, CBO estimates that implementing this provision would cost $8 million in 2005 and $50 million over the 2005-2014 period.

Spending from IRS User Fees. Section 482 would extend the authority of the IRS to charge taxpayers fees for certain rulings, opinion letters, and determinations through September 30, 2013. The act would authorize the IRS to retain and spend a portion of the fees collected, subject to appropriation. Based on the historical level of fees spent, CBO estimates that implementing this provision would cost $18 million over the 2005-2009 period and about $36 million over the 2005-2014 period, subject to the appropriation of the necessary amounts.

New Markets Tax Credit for Native American Reservations. Section 631 would establish a tax credit for investments in low-income Native American Reservations. There are no outlays associated directly with the tax credit; however, the act would authorize the appropriation of $1 million per year over the 2005-2014 period for grants to the First Nations Oweesta Corporation, both to provide residents of identified low-income reservations with development capital and to help them take advantage of the investments encouraged by the tax credit. CBO estimates that implementing the grants authorized under this section would cost $10 million over the next 10 years. (Revenue losses of $74 million over 10 years are incorporated in the other provisions section of the description of revenue effects.)

Blue Ribbon Commission on Comprehensive Tax Reform. Section 653 would authorize the appropriation of such sums as are necessary for the establishment of a Blue Ribbon Commission on Comprehensive Tax Reform. The commission would be comprised of 17 members to conduct a study of all matters related to a comprehensive reform of the federal tax system. The commission would be required to report to the President and the Congress within 18 months of the final appointment. Members of the commission could be current or former federal employees. All nonfederal employees would receive compensation. The commission would be authorized to appoint staff and procure other services as authorized by law. Based on the cost of similar commissions, including the National Commission on the Restructuring of the Internal Revenue Service, CBO estimates that the cost would be $2 million over the 2005-2006 period, assuming the appropriation of the necessary amounts.

Studies by the Department of Treasury. Section 606 would require the Treasury Department to complete studies on transfer pricing rules, income tax treaties, and corporate expatriation. Assuming the appropriation of the necessary amounts, CBO estimates that performing these studies would cost about $2 million in fiscal year 2005. Sections 235 and 420 would require several further studies, including impact of international tax laws, information sharing among law enforcement, and coalbed methane. Assuming the appropriation of the necessary amounts, CBO estimates that performing these studies would cost $1 million in fiscal year 2005, and smaller amounts thereafter.

Report on Acquisition of Goods from Foreign Sources. Section 1001 would require all civilian agencies, with certain national security and law enforcement exemptions, to annually report on the acquisition of goods from foreign sources. The reports would include a dollar value of all articles, materials, or supplies that were manufactured outside the United States and all waivers granted under the Buy American Act. In addition, agencies would be required to report summary totals of all procurement funds expended on articles, materials, and supplies inside and outside the United States. For this estimate, CBO assumes that the existing Federal Procurement Data System and individual agency accounting systems meet the current requirements for reporting on the procurement of foreign products. Thus, CBO estimates that these reports would not have a significant impact on the federal budget. However, if the procurement and accounting systems do not meet the reporting requirements the costs to the federal government could be substantial.

Study of Cross-Border Trade in Tobacco Products. The act would require the Comptroller General of the United States to conduct a study of cross-border trade in tobacco products. CBO estimates the study would cost less than $500,000, assuming the availability of appropriated funds.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

CBO has reviewed the nontax provisions of H.R. 4520 and determined that they contain several intergovernmental mandates as defined in the Unfunded Mandates Reform Act. In total, the cost of complying with the mandates in the bill would likely exceed the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation).

Offshore Contracts

A provision in title V that would prohibit states from using offshore contracts in federally funded programs would be an intergovernmental mandate as defined in UMRA. Conditions of such federal assistance are generally not considered mandates as defined by UMRA, but new conditions on large entitlement grant programs are intergovernmental mandates if states are not able to amend their financial or programmatic responsibilities to offset the costs of the new conditions. States use offshore contracts in a variety of programs, but particularly when administering the Food Stamp program. There is very-limited administrative flexibility under this program, unlike most other large entitlement programs.

Food stamp benefits are wholly funded by the federal government. States administer the program, however, and split the costs of administration with the federal government. Most states use contractors to operate call centers and support electronic benefit systems that beneficiaries use to purchase food items, but almost a third of the states have either ceased using foreign call centers or are planning to award future contracts only to entities operating within the United States. Some of the remaining states may voluntarily make similar contracting decisions, but others would continue to use foreign call centers in the absence of this legislation. By limiting the ability of those states to use such contracts, CBO estimates that the mandate would increase costs to states by about $3 million in 2005 and $5 million annually thereafter.

Overtime Pay

Sections 489 and 490 also constitute an intergovernmental mandate as defined in the UMRA because they would require states and local governments to pay overtime to certain workers who would have otherwise been exempt from overtime regulation. The exact cost of complying with the mandate is uncertain because it is unclear how many public workers would be affected, how many hours they would work, or the amount that employers otherwise would pay them for the overtime hours worked. Because of the large number of jurisdictions that would be affected, however, it is likely that the costs of these provisions would, in total, impose significant new costs.

Tobacco Restrictions

The requirements on tobacco manufacturers, distributers, and retailers in title XI would be intergovernmental mandates on tribal governments that operate tobacco-related businesses. However, those governments make up a small portion of the affected industry, and relative to the effects discussed in the section on private-sector mandates, the costs would be small. The bill would preserve state, local, and tribal authority to enact and enforce laws and regulations governing the sale, distribution, and advertising or use of tobacco that are more stringent than the requirements of the act. However, it also would preempt any law or regulation governing product standards, pre-market approval, adulteration, misbranding, labeling, registration, manufacturing standards, or risk reduction that is different from similar requirements in the act. This preemption would be an intergovernmental mandate as defined in UMRA because it would limit the application of state, local, or tribal law. However, it would impose no duty on those governments that would result in additional spending.

Other Effects

CBO has determined that the remaining nontax provisions of the act contain no intergovernmental mandates as defined in UMRA. Some of those provisions, however, would have significant impacts on the budgets of state, local, or tribal governments. By subjecting vaccines for hepatitis A and influenza to taxation, the act would increase state spending for Medicaid by about $90 million over the 2005-2009 period. Also, CBO estimates that expanding optional Medicaid coverage to include treatment options for children and adults with sickle cell disease would increase state spending for Medicaid by about $28 million over the 2005-2009 period. Finally, FDA regulation of tobacco products would reduce state spending for Medicaid by about $10 million over that period.

New user fees on and FDA regulation of tobacco products are expected to lower cigarette consumption and thus decrease state tax revenues on tobacco products. This decrease in revenues could be significant, but would not result from an enforceable duty or an intergovernmental mandate as defined in UMRA. CBO has not estimated the magnitude of such a decrease in state revenues.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

CBO has reviewed the nontax provisions and determined that the extension of the customs user fees, the extension of provisions in the Mental Health Parity Act, and the prohibition on implementing certain overtime pay regulations are private-sector mandates as defined in UMRA. CBO estimates that the aggregate direct costs of the mandates would exceed the annual threshold established by UMRA for private-sector mandates ($120 million in 2004, adjusted annually for inflation) in each of the first five years the mandates are in effect.

Customs User Fees

Section 485 would extend through 2013 the customs user fees that are scheduled to expire after March 1, 2005. CBO estimates that the cost of the private-sector mandate in section 485 relative to the case where the mandate is allowed to expire would be more than $780 million in fiscal year 2005, $1.6 billion in fiscal year 2006, and larger in later years.

Mental Health Parity

Section 701 would extend the provisions of the Mental Health Parity Act of 1996, which expires on December 31, 2004, through the end of calendar year 2005. That act prohibits group health plans that provide both medical and surgical benefits and mental health benefits from imposing aggregate lifetime limits or annual limits for coverage of mental health benefits that are different from those used for medical and surgical benefits. CBO estimates that the cost of the private-sector mandate in section 701 relative to the case where the mandate is allowed to expire would be $39 million in fiscal year 2005 and $41 million in fiscal year 2006.

Overtime Pay

The act would impose a mandate on private-sector employers because it would increase the number of workers covered by the overtime pay provisions of the Fair Labor Standards Act (FLSA). Sections 489 and 490 would prohibit the Secretary of Labor from implementing certain changes in the overtime regulations under the FLSA issued on April 23, 2004, that are scheduled to take effect on August 23, 2004. The changes that would be blocked are ones that would exempt certain workers who are currently covered by the overtime pay provisions of the FLSA. By restoring the pre-April regulations, the act would increase the number of workers covered by the overtime pay provisions relative to the number who will be covered once the new regulations take effect. CBO cannot determine the cost of this mandate because of uncertainties about how many workers would be affected, as well as how many hours they would work and the amount that employers would pay them for the overtime hours worked. However, based on information from government and other sources, CBO estimates that the cost to the private sector would exceed the annual threshold established by UMRA.

Declaration by Chief Executive Officer Relating to Tax Returns

Section 422 would impose a private-sector mandate on the chief executive officer (CEO), or other designated officer, of certain companies. The provision would require a CEO or other officer to include a signed declaration with the federal annual income tax return of certain companies. The declaration would state that the company has processes and procedures in place to ensure compliance with the Internal Revenue Code and that the CEO was provided reasonable assurance of the accuracy of all material aspects of such return. CBO expects that the cost to comply with the mandate would be minimal.

Provisions Relating to Tobacco

Title XI of the bill would impose a number of mandates on manufacturers and importers of tobacco products. The bill would give the Food and Drug Administration (FDA) the authority to regulate tobacco products, including requiring manufacturers and importers to submit health information relating to existing products, and to obtain pre-approval of new and modified products. The bill also would authorize the FDA to regulate the sale, marketing, and advertisement of tobacco products. In addition, it would give the FDA authority to require tobacco companies to list the ingredients they add to their products, and would impose new requirements on the labeling of tobacco products. The cost of many of those requirements to the affected private-sector entities would depend in part on the specific actions of the FDA.

The bill also would impose two new fees on manufacturers and importers of tobacco products. One fee would fund the administrative costs incurred by the FDA in regulating tobacco products. The other fee would be assessed quarterly by the Secretary of Agriculture to be deposited in a tobacco trust fund to finance the buyout payments to tobacco growers that would occur under the bill. CBO estimates that the cost to manufacturers and importers of the fee to fund FDA regulation would be $175 million in 2005 and $1.4 billion over the 2005-2009 period. CBO estimates that the cost of the fee related to the buyout would be $1.7 billion in 2005 and $6.6 billion over the 2005-2009 period.

PREVIOUS CBO ESTIMATES

On November 5, 2003, CBO transmitted a cost estimate for H.R. 2896, the American Jobs Creation Act of 2003, as ordered reported by the House Committee on Ways and Means on October 28, 2003. Many of the provisions in these two pieces of legislation are different, and the assumed enactment dates differ as well. The estimated budgetary impact of the two pieces of legislation reflects those differences, as well as changes in the baseline projections during the intervening period.

On November 6, 2003, CBO transmitted a cost estimate for S. 1637, the Jumpstart Our Business Strength (JOBS) Act, as ordered reported by the Senate Committee on Finance on October 2, 2003. Like the version of S. 1637 passed by the Senate on May 11, 2004, and as incorporated into H.R. 4520, as passed by the Senate, the committee-reported version repealed the exclusion for extraterritorial income and provided transition relief. However, it did not include the tobacco provisions in the current legislation. In addition, a number of the other provisions differ, such as the inclusion of energy tax provisions in the version of H.R. 4520 passed by the Senate. The estimated budgetary impact of the two pieces of legislation differ accordingly.

On June 16, 2004, CBO transmitted a cost estimate for H.R. 4520, the American Jobs Creation Act of 2004, which was ordered reported by the House Committee on Ways and Means on June 14, 2004. The estimated budgetary impact of the two pieces of legislation reflects differences in the provisions and different assumed enactment dates.

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